

# WEST VIRGINIA LEGISLATURE

## 2022 REGULAR SESSION

FILED

2022 MAR 21 A 11:47

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**Enrolled**

**Committee Substitute**

**for**

**Committee Substitute**

**for**

**Senate Bill 468**

BY SENATORS RUCKER, BOLEY, GRADY, KARNES,  
MAYNARD, PHILLIPS, ROBERTS, SMITH, STOVER, SYPOLT,  
TARR, WOODRUM, CLEMENTS, MARTIN, AZINGER AND  
MARONEY

[Passed March 12, 2022; in effect 90 days from passage]

SB468

# WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

**Enrolled**  
**Committee Substitute**  
**for**  
**Committee Substitute**  
**for**  
**Senate Bill 468**

BY SENATORS RUCKER, BOLEY, GRADY, KARNES,  
MAYNARD, PHILLIPS, ROBERTS, SMITH, STOVER, SYPOLT,  
TARR, WOODRUM, CLEMENTS, MARTIN, AZINGER AND  
MARONEY

[Passed March 12, 2022; in effect 90 days from passage]

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

2022 MAR 21 A 11:47

FILED

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §16-2Q-1, relating to restricting abortion; defining terms; requiring licensed  
3 medical professional to provide certain information; requiring Department of Health and  
4 Human Resources to make certain information available on website; prohibiting abortion  
5 because of a disability; providing exceptions; requiring commissioner to create forms;  
6 providing for professional sanctions; and providing criminal penalties.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 2Q. UNBORN CHILD WITH A DISABILITY PROTECTION AND EDUCATION  
ACT.**

**§16-2Q-1. Abortion may not be performed because of a disability, except in a medical  
emergency.**

1 (a) As used in this article:

2 “Abortion” means the same as that term is defined in §16-2F-2 of this code.

3 “Attempt to perform or induce an abortion” means the same as that term is defined in §16-  
4 2M-2 of this code.

5 “Because of a disability” means on account of the presence or presumed presence of a  
6 disability or diagnosis in a fetus including, but not limited to, chromosomal disorders or  
7 morphological malformations occurring as the result of atypical gene expressions.

8 “Commissioner” means the Commissioner of the Bureau for Public Health.

9 “Licensed medical professional” means a person licensed under Chapter 30 of this code  
10 practicing within his or her scope of practice.

11 “Medical emergency” means the same as that term is defined in §16-2I-1 of this code.

12 “Nonmedically viable fetus” means the same as that term is defined in §16-2M-2 of this  
13 code.

14 "Reasonable medical judgment" means the same as that term is defined in §16-2M-2 of  
15 this code.

16 (b) Except in a medical emergency or a nonmedically viable fetus, a licensed medical  
17 professional may not perform or attempt to perform or induce an abortion, unless the patient  
18 acknowledges that the abortion is not being sought because of a disability. The licensed medical  
19 professional shall document these facts in the patient's chart and report such with the  
20 commissioner.

21 (c) Except in a medical emergency or a nonmedically viable fetus, a licensed medical  
22 professional may not intentionally perform or attempt to perform or induce an abortion of a fetus,  
23 if the abortion is being sought because of a disability.

24 (d) (1) If a licensed medical professional performs or induces an abortion on a fetus, the  
25 licensed medical professional shall, within 15 days of the procedure, cause to be filed with the  
26 commissioner, on a form supplied by the commissioner, a report containing the following  
27 information:

28 (A) Date the abortion was performed;

29 (B) Specific method of abortion used;

30 (C) A statement from the patient confirming that the reason for the abortion was not  
31 because of a disability;

32 (D) Probable health consequences of the abortion to the patient;

33 (E) Whether a medical emergency existed; and

34 (F) Whether the fetus was a nonmedically viable fetus.

35 (2) The licensed medical professional shall sign the form as his or her attestation under  
36 oath that the information stated is true and correct to the best of his or her knowledge.

37 (3) Reports required and submitted under this section may not contain the name of the  
38 patient upon whom the abortion was performed or any other information or identifiers that would

39 make it possible to identify, in any manner or under any circumstances, a woman who obtained  
40 or sought to obtain an abortion.

41 (g) A licensed medical professional that administers, or causes to be administered, a test  
42 for a disability or diagnosis to a fetus shall provide the patient with educational information made  
43 available by the bureau as provided in this section, within a reasonable time, if the test result  
44 confirms the presence of a disability.

45 (h) The Bureau for Public Health shall make the following available through the bureau's  
46 publicly accessible internet website:

47 (1) Up-to-date, evidence-based information about any in-utero disability or diagnosis that  
48 has been peer reviewed by medical experts and any national disability rights organizations. The  
49 information provided shall include the following:

50 (A) Physical, developmental, educational, and psychosocial outcomes;

51 (B) Life expectancy;

52 (C) Clinical course;

53 (D) Intellectual and functional development;

54 (E) Treatment options; and

55 (F) Any other information the bureau deems necessary;

56 (2) Contact information regarding first call programs and support services, including the  
57 following:

58 (A) Information hotlines specific to any in-utero fetal disabilities or conditions;

59 (B) Relevant resource centers or clearinghouses;

60 (C) Information about adoption specific to disabilities;

61 (D) National and local disability rights organizations; and

62 (E) Education and support programs.

63 (i) The information provided in accordance with this section shall conform to the applicable  
64 standard or standards provided in the Enhanced National Standards for Culturally and

65 Linguistically Appropriate Services in Health and Health Care as adopted by the United States  
66 Department of Health and Human Services and published in the Federal Register on September  
67 24, 2013.

68 (j) A licensed medical professional who intentionally or recklessly performs or induces an  
69 abortion in violation of this section is considered to have acted outside the scope of practice  
70 permitted by law or otherwise in breach of the standard of care owed to a patient, and is subject  
71 to discipline from the applicable licensure board for that conduct, including, but not limited to, loss  
72 of professional license to practice.

73 (k) A person, not subject to subsection (f) of this section, who intentionally or recklessly  
74 performs or induces an abortion in violation of this article is considered to have engaged in the  
75 unauthorized practice of medicine in violation of §30-3-13 of this code, and upon conviction,  
76 subject to the penalties contained in that section.

77 (l) A penalty may not be assessed against any patient upon whom an abortion is performed  
78 or induced or attempted to be performed or induced.

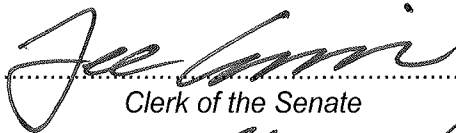
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
.....  
Chairman, Senate Committee


  
.....  
Chairman, House Committee

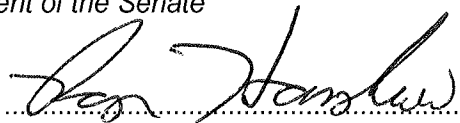
Originated in the Senate.

In effect 90 days from passage.

  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

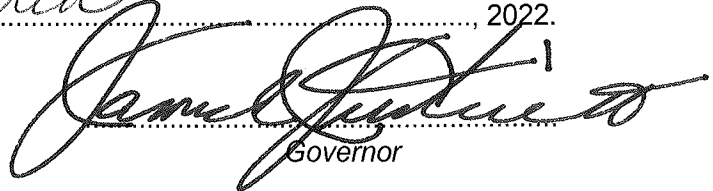
  
.....  
Speaker of the House of Delegates

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

2022 MAR 21 A 11:47

FILED

The within *is approved* this the *21st*  
*March*  
Day of ..... 2022.

  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 17 2022

Time 1:50 pm